

# City of Albuquerque Office of Internal Audit

# **Interoffice Memorandum**

June 23, 2004

Ref. No. 04-01-126F

To: Alfredo Santistevan, Director, Environmental Health Department

From: Debra Yoshimura, Director, Office of Internal Audit

Subject: FOLLOW-UP REVIEW OF AUDIT REPORT NO. 01-126, SELECTED

VENDOR, ENVIRONMENTAL HEALTH DEPARTMENT

The Office of Internal Audit (OIA) completed a follow-up review of Management Audit Report No. 01-126, Environmental Health Department—Selected Vendor, issued on September 19, 2002. The Vendor provides Household Hazardous Waste (HHW) and Hazardous Waste and Emergency Response (HWER) services to the City and Bernalillo County to help prevent improper disposal that could contaminate landfills, water sources and wastewater treatment plants. Bernalillo County compensates the City for its participation in the program.

The purpose of our review was to determine if the audit recommendations had been implemented. We determined the following:

#### **RECOMMENDATION NO.1**

Section 30.3.2(a) of the City's Purchasing Rules and Regulations states, "No payment shall be authorized for goods, services or construction which: (a) are not received...." During fiscal years 1998 thru 2001 the Environmental Health Department (EHD) paid \$75,840 for services that were not yet received from the Vendor at the time of invoicing. According to the City's EHD program manager and the Vendor, the City was intentionally pre-billed in order to prevent the loss of budgeted funds.

#### We recommended the following:

- EHD should discontinue the practice of requesting or accepting advance billings.
- EHD should comply with the contract terms and the City Rules and Regulations.
- EHD should pay the vendor only for goods and services that they have received.

# **ACTION TAKEN**

The recommendation has been implemented. We reviewed documentation for the relevant period and noted no evidence of pre-billings.

# RECOMMENDATION NO. 2

The contract with the Vendor states that the collection center shall be available to residents of the City of Albuquerque and Bernalillo County to properly dispose of their household hazardous waste. During our audit we noted that some HHW participants were from outside Bernalillo County. The City was charged approximately \$25,000 by the Vendor over the term of the contract for these ineligible participants.

# We recommended the Following:

- EHD should ensure that it pays only for Bernalillo County residents.
- EHD should require that the Vendor provide a list of zip codes of participants who have dropped off waste but do not live in the County. This might help in discussion with other local governments to consider a hazardous waste program for their own citizens.
- EHD should collect the \$25,000 of estimated overpayments from the vendor.

#### **ACTION TAKEN**

The recommendation has been partially implemented. EHD management has entered into a new contract with the Vendor. In order to prevent out-of-County residents from abandoning HHW in the City or the County, this new contract allows the vendor to accept out-of-County waste. Each participant is required to complete a form that requires the participant to enter the zip code in which they reside. If the participant resides outside the County the vendor is required to verbally inform the out-of-County participant that the program is for Bernalillo County residents only.

During our follow-up we examined a sample of the new forms completed by participants. We noted twelve forms where participants did not provide zip codes. The contract between the City and the Vendor states that at a minimum, the zip code and date the materials were received should be recorded. In addition, the vendor's SOPs require the staff to "review each HHW form for proper information prior to the customer leaving the site."

EHD management has made contact with other local governments, but has not been able to generate sufficient interest for implementation of separate or cooperative HHW programs. Also, in discussions with the City's Risk Management Division and the Legal Department, EHD was informed that there might be potential risk associated with the collection and combining of hazardous wastes of other governments.

EHD management has elected not to pursue collecting \$25,000 from the vendor for estimated payments for out-of-County participants. It appears that in many cases, EHD management instructed the vendor to accept the out-of-County waste because it is better to pay for a non-County participant than to pay a much higher fee for emergency cleanup after the citizen has left the waste at the landfill or an empty lot.

#### FOLLOW-UP RECOMMENDATION

EHD should ensure that the vendor complies with the contract terms regarding information that it submits to the City in support of its invoices.

#### EXECUTIVE RESPONSE FROM EHD

"EHD agrees. EHD will meet with the vendor to discuss the contractual requirements, including the information, i.e., zip code, date, and the materials received, that should be entered on the participant form, and the vendor's SOP to review each form for proper information prior to the customer leaving the site.

"Accepting househould hazardous waste, even from participants who refuse to provide zip code information, protects the environment from inappropriate disposal and potentially saves the City large emergency response costs resulting from illegally dumped waste. For this reason, EHD will examine the current contract and vendor SOP with Rinchem at the above-mentioned meeting. EHD will follow-up with a letter documenting the results of the meeting, or if necessary, changes will be made to the contract through a Supplemental Agreement.

"EHD staff reviews the spreadsheet participant lists every month, and requests changes, if needed, to the monthly invoices."

#### RECOMMENDATION NO. 3

The HHW contract stated that the participant fee for the first 4,000 participants in a year shall be \$70 per participant. The participant fee drops to \$45 for all participants over 4,000. In FY01 there were 4,194 participants in the program. The vendor billed \$70 for all participants. As a result, the vendor over-charged the City \$4,850. A credit was issued to the City for this over-charge.

We also noted that several HHW invoices had service charges that were vague and not specifically identified in the contract so it was difficult to determine if the services were allowable.

We recommended the following:

- EHD should ensure that the Vendor complies with the contract billing terms.
- EHD should review questionable invoices and collect overpayments it had made to the vendor.

#### **ACTION TAKEN**

The recommendation has been partially implemented. The new contract between the City and the Vendor establishes a set fee, regardless of the number of participants in the program. We also examined a sample of invoices for services billed in FY04. The invoices tested indicated that EHD was charged for services according to the contract billing terms and contained clear descriptions of the work that was performed.

EHD management has not reviewed any of the questionable invoices identified in the original audit to determine if the City was charged for services that were not allowable.

#### FOLLOW-UP RECOMMENDATION

EHD management should review invoices that had vague service charges that were not specifically identified in the contract. The City should request reimbursement for any unallowable charges.

# EXECUTIVE RESPONSE FROM EHD

"EHD was uncertain which old invoices were in question in the original audit. Thus, they did not conduct a review for possible reimbursement."

#### **AUDITORS' COMMENT**

Internal Audit will provide the invoice numbers for EHD to review.

#### RECOMMENDATION NO. 4

Several City departments are authorized to use the HWER contract. However, personnel in departments other than EHD may not possess the experience or knowledge to deal with hazardous waste. As a result, departments could request unnecessary or inappropriate services from the vendor.

In order to ensure the most efficient and effective use of the contract, we recommended that the CAO consider assigning oversight of the hazardous waste management program to a specific group or department. EHD and the CAO agreed to the recommendation stating that they would develop a plan to implement this program and would draft an Administrative Instruction defining the program.

#### **ACTION TAKEN**

The recommendation has been partially implemented. A specific group or department has not been formally assigned complete oversight of the program. However, shortly after the original audit report was issued, the EHD Director sent a memo to all

department directors informing them of the availability of the Vendor contract for hazardous waste disposal. The memo states: "Albuquerque Environmental Health Department oversees the contract and will coordinate the services between the Vendor and the user department." It further directs them to the designated EHD contact person for more information. The CAO has not implemented an Administrative Instruction.

## FOLLOW-UP RECOMMENDATION

The CAO should consider assigning oversight of the hazardous waste management program to a specific group or department, and thereby providing authorization and enforcement capabilities with regard to contract usage. This would provide better assurance that the services requested are appropriate and are billed to the correct contract.

## EXECUTIVE RESPONSE FROM THE CAO

"Oversight of the hazardous waste management program was assigned to the Environmental Health Department by memo from the Department Director in response to the original audit. EHD has been providing, and will continue to provide, technical assistance when requested by other Departments using the contract. The CAO will remind all Departments by memo that oversight of the hazardous waste management program is assigned to EHD and that they should contact EHD whenever they are in need of, or believe they are in need of, services under the contract."

#### RECOMMENDATION NO. 5

During our audit we noted several of the invoices for the HWER contract did not have clear descriptions for the services. Also, for the services the City was charged, many of the prices on the contract price matrix could not be found. In addition, some of the invoices for the HHW contract had missing information such as the description of the service that was provided and the date the service was performed.

We recommended that EHD ensure that the Vendor submit clear and complete invoices before releasing the invoices for payment.

#### **ACTION TAKEN**

The recommendation has been fully implemented. We reviewed a sample of invoices and they contained sufficient descriptions of the services provided. In addition, the services billed were all services with prices that were listed in the contract price lists.

#### RECOMMENDATION NO. 6

The Contract between the City and the Vendor states that the contractor shall procure insurance covering all operations under the agreement. The insurance certificate on file had expired and the Vendor had not provided a current policy to the City.

We recommended that EHD ensure that all of the Vendor's insurance policies related to the contract with the City remain current throughout the term of the contract.

# **ACTION TAKEN**

The recommendation has been fully implemented. The insurance certificates that were on file demonstrated that all the insurance requirements were in accordance with the contract terms.

#### RECOMMENDATION NO. 7

City Ordinance 9-10-1-10 ROA 1994 requires that the Solid Waste residential monthly billing include "\$.25 for a collection and disposal program for household hazardous wastes and unclaimed dead animal removal which will be administered by the Environmental Health Department." Each household is charged \$ .25 in the refuse portion of its monthly refuse bill. The revenues are collected by the Solid Waste Management Department (SWMD) and then transferred to the City's General Fund.

The National Council on Governmental Accounting (NCGA) Statement No. 1 states that a Special Revenue Fund is to account for the proceeds of specific revenue sources that are legally restricted to expenditures for specified purposes. NCGA Statement No. 1 requires that revenues and expenditures, such as those related to hazardous waste, be accounted for in a Special Revenue Fund or adequately segregated within the General Fund. Since City Ordinance requires this specific revenue source to be used for a legally restricted purpose, revenues in excess of expenditures must be made available for appropriation in future years for the hazardous waste program. Hazardous waste revenues and expenditures since 1998 are as follows:

	1998	1999	2000	2001	2002	2003	Total
Revenue*	\$ 325,000	\$ 380,000	\$381,000	\$ 381,000	\$ 424,820	\$ 425,000	\$ 2,316,820
Expend.	304,957	367,211	318,290	351,772	 350,885	329,315	2,022,430
Total	\$ 20,043	<u>\$ 12,789</u>	\$ 62,710	<u>\$ 29,228</u>	\$ 73,935	\$ 95,685	<u>\$ 264,390</u>

<sup>\*</sup> The HHW revenue recorded represents transfers from SWMD to EHD. These transfers are based on estimates by SWMD, not actual revenue received. As a result, actual revenues received may be higher.

The \$264,390 of revenue in excess of expenditures over the past six years has not been designated exclusively for hazardous waste uses. As a result, the City is using funds on other things that should be used exclusively for hazardous waste. The Department of Finance and Administrative Services should create a Special Revenue Fund to properly account for hazardous waste revenues and expenditures or should properly designate revenues in excess of expenditures for the hazardous waste program in the General Fund. EHD should then seek an appropriation for the excess of revenues over expenditures.

We also noted that SWMD is estimating revenue relating to hazardous waste and transferring revenues to the General Fund based on these estimates instead of transferring actual revenues received. SWMD management could not provide any data demonstrating how much actual revenue they received relating to hazardous waste. We recommended that EHD request the necessary information from SWMD to determine the actual amount of hazardous waste revenue received and then adjust the previous years' estimates to actual.

#### **ACTION TAKEN**

This recommendation has not been implemented. EHD did not request an appropriation for the full amount of the anticipated revenue generated through SWMD for the hazardous waste program. EHD has not requested the information necessary to reconcile the actual revenues to the estimated revenues with the intent of transferring excess funds to the General Fund as a restricted fund balance to be used in the household hazardous waste program.

# FOLLOW UP RECOMMENDATION

The Department of Finance and Administrative Services should create a Special Revenue Fund that properly accounts for hazardous waste revenues and expenditures or should properly designate revenues in excess of expenditures for the hazardous waste program in the General Fund. In addition, EHD should request that SWMD provide data on actual revenues received and adjust the General Fund accordingly.

#### EXECUTIVE RESPONSE FROM EHD

"EHD concurs. The division received an increased appropriation for the Household Hazardous Waste Collection Center in its FY/05 budget. The increased transfer from SWMD is based on the estimated FY/05 residential collection revenues. The transfer is not adjusted to actual revenues at year-end."

# EXECUTIVE RESPONSE FROM DFAS

"DFAS" interpretation of the City Ordinance 9-10-1-10 ROA 1994 is that \$.25 of the basic service charge is earmarked for, not legally restricted to, household hazardous waste collection and disposal and dead animal removal. Therefore the accounting for this revenue complies with GASB 1300.105 as well as the Governmental Accounting, Auditing and Financial Reporting (GAAFR from GFOA) standards under its definition of special revenue funds (Chapter 5)."

## AUDITORS' COMMENT

City Ordinance § 9-10-1-10(A)(2) states in part, "A residential environmental needs charge of \$.68 monthly effective May 31, 2003 shall be applied as follows: (a) \$.25 for a collection and disposal program for household hazardous wastes and unclaimed dead animal removal which will be administered by the Environmental Health Department." City Ordinances are law; therefore, the funds collected from City refuse customers for household hazardous waste and unclaimed dead animal programs meet the requirement of NCGA Statement No. 1 (Codified as GASB 1300.105) of being legally restricted to expenditure for specified purposes.

# Other Items Noted During the Follow-Up Audit

This additional item was noted during the follow up.

# EHD SHOULD DISCONTINUE PAYING FOR DUPLICATE PARTICIPANTS

During our review of the participant lists for four months, we noted that there were several duplicate participants for whom the City was billed. In a four-month period, the Vendor billed for 32 duplicate names on the participant lists. EHD management reports that duplicate names are submitted when the vendor receives large quantities of HHW from a single participant. For example, if one participant comes in with a large load of HHW, the Vendor arbitrarily determines what constitutes a load and then submits the participants name several times for that visit. Each time a participants name is submitted, the vendor is paid the contracted fee of \$70. Neither EHD management or the Vendor could provide us with a measurement that constitutes a "load." The contract also does not reference a specific quantity that constitutes a load, but it is reasonable to conclude that a load consists of one HHW drop-off per participant per visit.

# RECOMMENDATION

EHD should discontinue paying participant fees that are higher than the \$70 agreed-upon fee. EHD should ask the vendor to refund all payments that were made for the higher than contracted fee.

## EXECUTIVE RESPONSE FROM EHD

"On several occasions, participants have made multiple trips on the same day, and those trips were appropriately counted as separate participant visits.

"Many of the duplicate participants were for extremely large volume drop-offs. EHD and vendor staff discussed the specifics of the situation at the time of each drop-off and agreed upon a reasonable participant number commensurate with the volume/size of the load.

"EHD agrees that effective July 1, 2004, the \$70 per participant charge per the contract will continue, unless large volume drop-offs are addressed in a Supplemental Agreement to the contract.

"EHD staff was consulted and verbally approved the multipleparticipant charges based on the volume/size of the drop-off, therefore the division does not agree that the vendor should be asked to refund the payments that were made for the higher fee."

xc: Mayor Chavez
Internal Audit Committee
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Diana Dorn-Jones, COO
Gail Reese, CFO
Laura Mason, Director, Council Services Department
Alfredo Santistevan, Director, Environmental Health Department
Sandy Doyle, Director, Department of Finance and Administrative Services